



South Florida Water Management District

GOVERNING BOARD MEETING MINUTES

July 15, 2010

9:00 AM

District Headquarters - B-1 Auditorium
3301 Gun Club Road
West Palm Beach, FL 33406

Members Present:

Sandy Batchelor

Charles Dauray

Kevin Powers

Eric Buermann, Chair

Shannon Estenoz

Glenn Waldman

Joe Collins

Jerry Montgomery

1. Call to Order - Eric Buermann, Chairman, Governing Board

Chair Buermann called the meeting to order at 9:05 a.m.

Ms. Estenoz announced the passing of Johnny Jones, Everglades lobbyist. Ms. Estenoz recognized Mr. Jones' outstanding efforts in the protection of Florida's natural areas and his induction into the Everglades Coalition's Hall of Fame. Mr. Jones pushed for the restoration of the Kissimmee River and establishment of the Big Cypress National Preserve.

Ms. Estenoz requested the District recognize Mr. Jones' family in order to show their gratitude and respect that the District has for Mr. Jones.

2. Pledge of Allegiance - Eric Buermann, Chairman, Governing Board

Charles Dauray led the group in the Pledge of Allegiance.

3. Recognition of George L. Horne - Eric Buermann, Chairman, Governing Board

Chair Buermann recognized and presented George Horne (former Deputy Executive Director of Operations and Maintenance) a proclamation honoring his thirty seven years of public service to the South Florida Water Management District.

4. Employee Recognitions - Presented by Carol Wehle, Executive Director

July Employee of the Month - Patti Nicholas

July Team of the Month - Performance Records Conversion Team

25 Year Service Award - Cal Neidrauer

Carol Wehle, Executive Director, recognized the July Employee and Team of the Month. Ms. Wehle also recognized a 25 year service award.

5. Agenda Addendum - Annette Carter, Director, Office of Governing Board & Executive Services

Annette Carter, Director, Office of Governing Board & Executive Services, read into the record:

Section 120.525, Florida Statutes, allows the District to change the published agenda for good cause shown, as determined by the presiding officer. Based upon that authority, the Chairman has determined that good cause exists to make certain changes to the Agenda. These changes are being made in order to permit the Governing Board to efficiently accomplish necessary public business at this meeting and to reflect the items on the agenda that have been requested or suggested to be deleted, revised, supplemented or postponed. These changes have been listed in the Governing Board Addendum available at the entrance to this meeting room.

Ms. Carter also announced that Item 52 was added to the Consent Agenda and Item 53 has been added to the Discussion Agenda.

6. Abstentions by Board Members from items on the Agenda

Joe Collins abstained from Agenda Item 12.

Consent Agenda

8. Public Comment on Consent Agenda

Public Comment: Rosa Durando, citizen, commented on hunting on District land and opposes lead shot being used for hunting.

Tommy Strowd, Deputy Executive Director, Operations & Maintenance, commented that staff work very closely with Florida Fish and Wildlife Conservation Commission in regards to hunting on District lands and stated the District is consistent with following state and federal guidelines.

Ms. Estenoz asked staff to establish best management practices and/or public outreach to encourage hunters to choose steel over lead shot.

Mr. Dauray said the Isaac Walton League strongly encourages a reduction of lead shot on Florida's land.

9. Pull Items for Discussion from Consent Agenda

There were no items pulled from the Consent Agenda for discussion.

10. Board Comment on Consent Agenda

There was no Board comment on the Consent Agenda.

Regulatory Matters

11. Denials

Consent Agreements

Conservation Easement Amendments and Releases

Seminole Tribe Work Plans

12. Right of Way Occupancy New Permits

Right of Way Occupancy Permit Modifications

Right of Way Permit Requests With Waiver of District Criteria

Concurrence with Executive Directors Emergency Authorizations

Note: Joe Collins abstained from voting on Agenda Item 12.

Everglades Restoration and Capital Projects

- 13. 2010-700** A Resolution of the Governing Board of the South Florida Water Management District approving the release of canal reservation/easement interests to the underlying fee owner, containing 0.12 acres, more or less, over a portion of Tract 54, Florida Fruit Lands Company Subdivision No. 1, in Section 11, Township 53 South, Range 40 East, Plat Book 2, Page 17, Miami-Dade County Public Records, C-6 (Miami) Canal right of way, Miami-Dade County, Florida; subject to a perpetual maintenance agreement; providing an effective date. (Linda Schindeler, ext. 6838)

- 14. 2010-701** A Resolution of the Governing Board of the South Florida Water Management District approving release of a canal reservation, containing 2.03 acres, more or less, being a portion of Tract "A", Cobblestone Plaza, Plat Book 177, Page 69, Section 16, Township 51 South, Range 40 East, Broward County, Florida; providing an effective date. (Linda Schindeler, ext. 6838)

- 15. 2010-702** A Resolution of the Governing Board of the South Florida Water Management District to approve declaring surplus land interests containing 0.12 acres, more or less, in fee, being a portion of Lot Z, Lake Trafford Shores Unit No. 1, Plat Book 8, Page 12, located in Section 36, Township 46 South, Range 28 East, Collier County, CREW Project (Save Our Rivers, Lake Trafford Area); authorize the donation of said property to Collier County for public access; and approve waivers of the application fee and reservation of rights pursuant to Section 270.11, Florida Statutes; providing an effective date. (Marcy Zehnder, ext. 6694)

16. **2010-703** A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to Contract Number LS051080 with A. Duda & Sons, Inc., to extend the term for five (5) years, from September 1, 2010 to August 31, 2015, and adjust the annual rent from \$54,276.93 to \$53,700.00 based on a recent appraisal of the market rent; providing an effective date. (Contract Number LS051080-A01) (Andrea Stringer, ext. 6742)
17. **2010-704** A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to Contract Number LS051082 with Randy Fulford to extend the term for five (5) years, from September 1, 2010 to August 31, 2015, and adjust the annual rent from \$24,758.85 to \$16,725.00 based on a recent appraisal of market rent and reduced acreage; providing an effective date. (Contract Number LS051082-A02) (Andrea Stringer, ext. 6742)
18. **2010-705** A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to Contract Number LS050770 with C2 Ranch, Inc. to extend the term for five (5) years, from July 8, 2010 to July 7, 2015, and adjust the annual rent from \$23,840.00 to \$10,430.00 based on a recent appraisal of market rent and reduced cattle stocking rate; providing an effective date. (Contract Number LS050770-A01) (Andrea Stringer, ext. 6742)
19. **2010-706** A Resolution of the Governing Board of the South Florida Water Management District authorizing an amendment to Contract Number LS050771 with Janet P. Storey, Trustee of the Juanell P. Peebles Trust Dated October 18, 1990 to extend the term for five (5) years, from July 8, 2010 to July 7, 2015, and adjust the annual rent from \$14,960.00 to \$6,510.00 based on a recent appraisal of market rent and reduced cattle stocking rate; providing an effective date. (Contract Number LS050771-A01) (Andrea Stringer, ext. 6742)
20. **2010-707** A Resolution of the Governing Board of the South Florida Water Management District to approve an agreement with Westgate Resorts, Ltd. ("Westgate") in connection with the Kissimmee River Restoration and Headwaters Revitalization Project in Polk County, whereby the District will pay Westgate a maximum of \$135,720 to formulate an engineering solution to address flooding and drainage impacts with respect to certain Westgate property for which dedicated funds (Florida Forever Trust Fund) [subject to approval of this expenditure by the Florida Department of Environmental Protection] or ad valorem funds (Capital Projects Okeechobee) are budgeted; providing an effective date. (Bob Schaeffer, ext. 2985)
21. **2010-708** A Resolution of the Governing Board of the South Florida Water Management District requesting the release of funds from the Florida Forever Trust Fund by the Department of Environmental Protection in connection with an agreement with Westgate Resorts, Ltd. for the Kissimmee River Restoration and Headwaters Revitalization Project in Polk County, whereby the District will pay Westgate a maximum of \$135,720 to formulate an engineering solution to address flooding and drainage impacts to certain Westgate property; providing an effective date. (Bob Schaeffer, ext. 2985)

22. **2010-709** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a Third Amendment of the C-44 Reservoir/Stormwater Treatment Area Project Funding Agreement with Martin County to provide for Citrus Boulevard Bridge and culvert improvements for which Operation and Maintenance funding is subject to Governing Board approval in future fiscal year budgets; providing an effective date. (Ruth Clements, ext. 6271)

Executive Office

23. **2010-710** A Resolution of the Governing Board of the South Florida Water Management District to authorize a settlement for all discrimination and other claims by John Moore, including but not limited to, an alleged retaliatory discharge action styled John Moore v. South Florida Water Management District, filed in the 15th Judicial Circuit in and for Palm Beach County, Florida, Case No.: 50 2008 CA 036666 AD; providing an effective date. (Robert Panse, ext. 6279)
24. **2010-711** A Resolution of the Governing Board of the South Florida Water Management District amending the Fiscal Year 2009-2010 Budget; providing an effective date (Mike Smykowski, ext. 6295).
25. **2010-712** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2009-2010 budget as shown on the attachment hereto; providing an effective date (Mike Smykowski, ext. 6295).
52. **2010-721** A Resolution of the Governing Board of the South Florida Water Management District authorizing the transfer of funds within the District FY2009-2010 budget to fund pump station fuel for the Central and Southern Flood Control System Project and Stormwater Treatment Areas as needed to meet wet season operational pumping requirements as shown on the attachment hereto; providing an effective date (Mike Smykowski, ext. 6295).

This item was deleted off the agenda.

Regulatory and Public Affairs

26. Enter a Final Order Rescinding Water Shortage Order No. 2007-870-DAO-WS rescinding water shortage restrictions in Charlotte and Polk Counties consistent with the rescission of the water shortage order of the Southwest Florida Water Management District (Peter Kwiatkowski, ext 2547)

Corporate Resources

28. Approval by the Governing Board of the South Florida Water Management District of a proclamation declaring July 18-24, 2010, as Contract Management Week at the South Florida Water Management District in recognition of Contract Managers, in conjunction with National Contract Management Week. (Jessica Flathmann x6043)

Operations and Maintenance

- 29. 2010-714** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Florida Fish and Wildlife Conservation Commission to establish District lands consisting of approximately 4,235 acres located in Martin County, as part of the John C. and Mariana Jones / Hungryland Wildlife and Environmental Area and manage hunting and public use on such lands, subject to terms and conditions; providing an effective date. (Steve Coughlin, ext. 2603)
- 30. 2010-715** A Resolution of the Governing Board of the South Florida Water Management District authorizing the Florida Fish and Wildlife Conservation Commission to establish vacant undesignated lands consisting of approximately 1,900 acres in the L-31 North project, Miami-Dade County. as a Public Small Game Hunting Area for the 2010-11 hunting season and manage for waterfowl hunting only on such lands, subject to terms and conditions; providing an effective date. (Steve Coughlin, ext. 2603)

31. Board Vote on Consent Agenda

Note: Joe Collins abstained from voting on Consent Agenda Item 12.

Motion made by Jerry Montgomery, seconded by Shannon Estenoz to Approve the following item(s): 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29, 30, 52

Vote called. Voting yes: Jerry Montgomery, Shannon Estenoz, Sandy Batchelor, Eric Buermann, Joe Collins, Charles Dauray, Kevin Powers, Glenn Waldman.
Motion passed.

Workshop Agenda

32. State of Water Resources

A) Water Conditions & Water Supply Report - Cal Neidrauer, Chief Engineer, Operations Control & Hydro Management Department (ext. 6506)

B) Ecological Conditions Report - Deborah Drum, Deputy Director, Restoration Sciences Department (ext. 6392)

C) US Army Corps of Engineers' Lake Okeechobee Report - Kimberley Taplin, P.E., West Palm Beach Deputy Program Manager for Restoration, US Army Corps of Engineers

Cal Neidrauer, Chief Engineer, Operations Control & Hydro Management reported on the wet season rainfall for June 2010, groundwater levels, and the water supply status. He then reported on water conditions for Lake Toho, Lake Istokpoga, Lake Kissimmee, and the current water release rates for Lake Okeechobee.

Mr. Neidrauer then reported on the water levels in the Water Conservation Areas, the National seasonal precipitation outlook and the July 2010 Lake Okeechobee position analysis.

Deborah Drum, Deputy Director, Restoration Sciences Department, presented the ecological conditions report and said the conditions in the upper and lower Kissimmee Basin are seasonally normal.

Ms. Drum reported on snail kite nestings and blue green algal blooms on Lake Okeechobee. She said this is a typical summer occurrence on the lake.

Ms. Drum then reported on the salinity levels for the Caloosahatchee and St. Lucie Estuaries.

Chair Buermann asked about the correlation between the red tide and the discharges from the Caloosahatchee Estuary.

Ms. Wehle explained the discharges from the Caloosahatchee Estuary will affect the shore south of the estuary and it is a very complex issue.

Ms. Drum reported the St. Lucie salinity levels at the U.S. 1 Bridge are below the salinity envelope and are threatening oyster survival.

Mr. Dauray asked about the NOAA Oyster Restoration program in the St. Lucie River.

Mr. Powers said the salinity levels have dropped and the oyster are under great pressure.

Albrey Arrington, Loxahatchee River Management Coordinating Council reported on the NOAA Oyster Restoration Program on the St. Lucie and the Loxahatchee River. He said the major effort of the project is to provide sub-straight for the oyster larvae. He noted even with fresh water releases, the funding for this program is still an investment because the sub-straight will not get washed away and there will be recolonization of the oysters.

Mr. Dauray suggested the west coast and the east coast communicate on the projects because of similar challenges with diminishing oyster beds.

Ms. Drum then reported on the survey of bird use in the STAs, WCA 3A and the EAA from 2008 through 2009, the submerged aquatic vegetation inoculation in STA 2 and 1E and the water depths in the greater Everglades from April through June 2010.

Kim Taplin, West Palm Beach, Deputy Program Manager for Restoration, USACE, provided the USACE's Lake Okeechobee Water Conditions Report. Ms. Taplin reported the lake level is above average. She thanked staff for working with the USACE on giving them the best information possible for the water releases.

Colonel Alfred Pantano, USACE, commented on the public's concern over Lake Okeechobee discharges and reported he proposed that the Everglades Task Force have a Lake Okeechobee Summit in order to get a consensus on defining the problem and identifying the solutions. The purpose of the summit would be to inform, educate, and share some of the emotions and feelings that are out there and to maintain the relationships.

He also reported that there are live webcams streaming the discharges to the St. Lucie and Caloosahatchee estuaries on the USACE website.

Mr. Powers, Ms. Estenoz, Mr. Collins and Mr. Dauray thanked Colonel Pantano for his leadership and being proactive with the discharges into the estuaries.

54. An Initiative to Enhance Water Supply Management Services in South Florida - Carol Wehle, Executive Director (ext. 2893)

Carol Wehle, Executive Director, presented information on an initiative to enhance Water Supply Management Service in South Florida. Ms. Wehle presented water supply's recent successes, challenges, solutions and the water supply action plan with permitting, planning, and rule evaluation including establishing a team of stakeholders through the Water Resource Advisory Commission (WRAC) in order to:

- Provide recommendations on key water use policy issues: use of multiple sources, past wetland harm, 10-year compliance reviews and sustainability permits
- Review existing consumptive use permitting rules and recommend revisions to eliminate complexities, improve consistency and clarify language
- Maintain protection for resource
- Review recommendations for consistency with other water management districts
- Identify and recommend incentive-based conservation and water supply solutions

Ms. Wehle also reported that the water supply action plan includes the coordination and communication with the utilities and agriculture. The water supply plan will also include reviewing water supply models, conduct comprehensive evaluation of water supply availability, facilitate development of innovative regional water resource projects and solutions, and establish a water conservation technology team to review and pilot emerging technologies.

Mr. Montgomery requested creating a common modeling approach across the water management districts when utilities and taxpayers are being regulated by two separate entities that use two different modeling approaches and rules.

Ms. Estenoz commented on modeling and recharging the Floridan aquifer.

Public Comment: Rosa Durando, citizen, commented on the different water management districts collaborating with Regional Planning Councils for workable solutions.

Regulatory and Public Affairs

33. Legacy Environmental Education Program - Barbara Ross, Director, Public Information Department (ext. 2066), Dan Thayer, Director, Land Management & Vegetation Department (ext. 6129) and Kim Shugar, Director, Intergovernmental Programs Department (ext. 6016)

Barbara Ross, Director, Public Information Department, presented information on a new District initiative - the Legacy Environmental Education Program which partners school projects on nearby public lands. The program also provides outdoor learning experiences for students and utilizes agency expertise in land management, water resource and environmental science. Ms. Ross reported on the history of Legacy which was developed in 1993 at the St. John's River Water Management District. Ms. Ross then explained Legacy goals and the pilot sites in the area.

Mr. Dauray said this is a team effort and the partnership between children and nature is critically important.

Mr. Powers said he is very supportive of this program.

34. Intergovernmental Policy and Planning Update - Rod Braun, Director, Intergovernmental Policy and Planning Division (ext. 2925)

Rod Braun, Director, Intergovernmental Policy and Planning Division, presented information on the core functions of his Division:

- Review comprehensive plan amendments and other planning documents for consistency with the Districts mission
- Respond as a landowner to proposed amendments or other actions that may be adjacent to or on District-owned lands or projects
- Provide technical assistance
- Review 135 Proposed Comprehensive Plan Amendment Packages and 225 Adopted Comprehensive Plan Amendments

Mr. Braun reported on the coordination with local governments regarding:

- Local Government Comp Plan Amendments
- Water Supply Facilities Work Plans
- Local Government EARs and EAR-based Amendments
- Power Plant Siting
- Development of Regional Impact (DRIs; 27 Active)
- State Clearinghouse Items
- State Mining Permits
- Natural Gas Pipelines
- FDOT Review
- Educational Master Plans
- 298 District Water Control Plans
- Zoning Documents (Mining)
- State Oil Well Applications
- Tribal Documents

Mr. Braun then explained how the Division has expanded the scope by due diligence on issues regarding Ecosystem Restoration, Water Supply, Water Quality, Flood Control and Natural Systems.

Ms. Estenoz praised the coordination between the staff and local governments. She said the biggest complaint she hears is government not working together and this effort is about good government working efficiently together. She said the developers claim that early input from government is the most important issue.

Mr. Powers stated each County is different regarding the Comp Plan Amendments and said we have to be mindful of what the District's role is and supports stakeholder input before we start rolling this system out.

55. Everglades Agricultural Area (EAA) and C-139 Basins Regulatory Source Control Program Annual Update - Pamela Wade, Director, Everglades Regulation Division (ext. 6901)

Pamela Wade, Director, Everglades Regulation Division, presented an annual update of the Best Management Practices (BMPs) for the Everglades Agricultural Area (EAA) and C-139 Basins. The 2010 EAA phosphorus reduction is 41 percent and the C-139 Basin achieved it's phosphorus discharge goals. Ms. Wade then reported on the rulemaking timeline for the C-139 Basin.

Public Comment: Rosa Durando, citizen, opposes permitting rock mining or an inland port in the EAA.

Discussion Agenda

35. 2010-716 Discussion on FY2010-2011 Budget and Approval of Proposed Millage Rates

A Resolution of the Governing Board of the South Florida Water Management District approving submission of the proposed FY2010-2011 millage rates for the purpose of notifying county property appraisers for publication on Truth-In-Millage (TRIM) notices; providing an effective date (Mike Smykowski, ext. 6295).

Mike Smykowski, Director, Budget Division, presented the FY2010-2011 budget and approval of the proposed millage rates.

Mr. Smykowski also reported on the EDR's taxable value for FY12 and a further projected drop of 1.38%. Mr. Smykowski reported staff's recommendation of a 5% reduction in taxable value for planning purposes.

Mr. Montgomery recommended a range from 5% to 10% reduction in taxable value for planning purposes.

Public Comment: Cara Capp, Clean Water Action, commented on Everglades restoration and supports the U.S. Sugar land acquisition in this year's budget.

Public Comment: Albrey Arrington, Loxahatchee River Management Coordinating Council, requests the allocation of SFWMD's staff to develop operational criteria to meet the minimum flow criteria of 35 cfs in the Northwest Fork of the Loxahatchee River.

Motion made by Shannon Estenoz, seconded by Jerry Montgomery to Approve the following item(s): 35

Vote called. Voting yes: Shannon Estenoz, Jerry Montgomery, Sandy Batchelor, Eric Buermann, Joe Collins, Charles Dauray, Kevin Powers, Glenn Waldman. Motion passed.

Everglades Restoration and Capital Projects

37. 2010-717 A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a Project Partnership Agreement with the U.S. Department of the Army for construction, operation, maintenance, repair, replacement, and rehabilitation of the Melaleuca Eradication and Other Exotic Plants - Implement Biological Controls Project, a component of the Comprehensive Everglades Restoration Plan, at a total estimated construction cost of \$1,750,000 and an estimated annual operations and maintenance cost of \$660,000, for which the South Florida Water Management District will be responsible for providing a 50 percent cost-share, and for which funding, if any, is subject to Governing Board approval of future fiscal years budgets; providing an effective date. (Contract Number 4600002148) (Paul Warner, ext. 6512)

No presentation provided.

Public Comment: Megan Tinsley, Audubon of Florida, supports the project partnership agreement and thanked those involved in this agreement.

Public Comment: Colonel Alfred Pantano, USACE, thanked staff and the State of Florida for pursuing this project and provided an explanation of the project and the importance of biological control. Colonel Pantano also reported that the project partnership agreement for the C-44 will be brought to the Governing Board in August.

Motion made by Shannon Estenoz, seconded by Joe Collins to Approve the following item(s): 37

Vote called. Voting yes: Shannon Estenoz, Joe Collins, Sandy Batchelor, Eric Buermann, Charles Dauray, Jerry Montgomery, Kevin Powers, Glenn Waldman. Motion passed.

- 38. 2010-718** A Resolution of the Governing Board of the South Florida Water Management District authorizing entering into a Cooperative Agreement with the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida, the University of Florida Board of Trustees, and the United States Department of Agriculture - Agricultural Research Service, at no cost, for dedication and certification of approximately 0.19 acres of land in Davie, Florida, for implementation of the Melaleuca Eradication and Other Exotic Plants Implement Biological Controls Project, a component of the Comprehensive Everglades Restoration Plan; providing an effective date. (Contract Number 4600002151) (Paul Warner, ext. 6512)

No presentation provided.

Motion made by Jerry Montgomery, seconded by Shannon Estenoz to Approve the following item(s): 38

Vote called. Voting yes: Jerry Montgomery, Shannon Estenoz, Sandy Batchelor, Eric Buermann, Joe Collins, Charles Dauray, Kevin Powers, Glenn Waldman. Motion passed.

- 39. 2010-719** A Resolution of the Governing Board of the South Florida Water Management District to authorize entering into a 420-day contract with Suffolk Construction Company, Inc., the lowest pre-qualified, responsive and responsible bidder, for construction of the Environmental Services Laboratory in the amount of \$7,870,000 of which ad valorem funds in the amount of \$1,124,285 are budgeted, and the remainder is subject to Governing Board approval of the FY11 budget; providing an effective date. (Contract Number 4600002161) (John Mitnik, ext. 3748)

No presentation provided.

Motion made by Jerry Montgomery, seconded by Kevin Powers to Approve the following item(s): 39

Vote called. Voting yes: Jerry Montgomery, Kevin Powers, Sandy Batchelor, Eric Buermann, Joe Collins, Charles Dauray, Shannon Estenoz, Glenn Waldman. Motion passed.

Executive Office

- 40. 2010-720** A Resolution of the Governing Board of the South Florida Water Management District authorizing a settlement and the execution of documents required to effectuate a settlement in connection with South Florida Water Management District v. Cutler Bay Venture, LLC and Miami-Dade County Tax Collector, 11th Judicial Circuit, Miami-Dade County, Florida, Case No. 07-30747 CA 10. (Keith Rizzardi, ext. 6274)

This item was deleted off the agenda.

53. **2010-722** A Resolution of the Governing Board of the South Florida Water Management District authorizing District staff to appear as *amicus curiae*, intervene or pursue any and all appropriate defenses or relief, and take all appropriate action staff deems necessary to protect the District's interests, subject to approval of the Executive Director, in the matter of Miccosukee Tribe of Indians of Florida et al. v. United States of America et al., United States District Court for the Southern District of Florida, Case No. 04-21448-CIV-Gold/McAliley, Appeal Pending. (Kirk Burns, ext. 6546)

No presentation provided.

Motion made by Jerry Montgomery, seconded by Shannon Estenoz to Approve the following item(s): 53

Vote called. Voting yes: Jerry Montgomery, Shannon Estenoz, Sandy Batchelor, Eric Buermann, Joe Collins, Charles Dauray, Kevin Powers, Glenn Waldman.

Motion passed.

Regulatory and Public Affairs

41. Denial of Consumptive Use Permit Application Number 090501-7 for public water supply and irrigation for a project known as Turkey Hammock (Osceola County) (Robert M. Brown, ext 6283)

Robert M. Brown, Director, Environmental Resource Regulation Department, provided background information and the basis for denial on the project known as Turkey Hammock.

Motion made by Shannon Estenoz, seconded by Jerry Montgomery to Approve the following item(s): 41

Vote called. Voting yes: Shannon Estenoz, Jerry Montgomery, Sandy Batchelor, Eric Buermann, Joe Collins, Charles Dauray, Kevin Powers, Glenn Waldman.

Motion passed.

42. Public Comment

- Regulatory Policy Issues

- General Public Comment

Public Comment: Lisa Wilson Davis, Southeast Florida Utility Council(SEFLUC), thanked Ms. Wehle and staff for attending SEFLUC's meeting and presenting the initiative to enhance water supply management services in South Florida.

Public Hearing

Regulatory and Public Affairs

43. Open Public Hearing

Adopt amendment to Rule 40E-3.035, F.A.C., to incorporate by reference: 1) the agreements with the following governmental entities: Lee County and the County Health Departments of Broward, Glades, Highlands, Miami-Dade, Orange, Osceola, Polk, and Palm Beach Counties to delegate the implementation of the Water Well Regulatory Program; 2) to incorporate by reference the first amendments to the delegation agreements with the City of Cape Coral, Collier County, and the County Health Departments of Hendry, Martin, Okeechobee, Osceola, and St. Lucie Counties; and, 3) to incorporate by reference the second amendments to the delegation agreements with the Martin, Okeechobee, and St. Lucie County Health Departments to include a provision concerning legal support. (Jennifer Bokankowitz, ext 2258)

Close Public Hearing

Chair Buermann opened the public hearing.

Jennifer Bokankowitz, Associate Attorney, presented information on the rule amendments.

Chair Buermann closed the public hearing.

Motion made by Shannon Estenoz, seconded by Joe Collins to Approve the following item(s): 43

Vote called. Voting yes: Shannon Estenoz, Joe Collins, Sandy Batchelor, Eric Buermann, Charles Dauray, Jerry Montgomery, Kevin Powers, Glenn Waldman. Motion passed.

Staff Reports

44. General Counsel Report - Sheryl Wood

There was no report provided.

45. Executive Director's Report - Carol Wehle

- Report on Permits Issued by Authority Delegated to the Executive Director from June 1 to June 30, 2010

There was no report provided.

46. Board Comment

Mr. Dauray announced that the South Florida Water Management District recently received a major international award from the International Academy of Visual Arts for "The Future of America's Everglades", an interactive educational DVD.

Attorney Client Sessions

Executive Office

47. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno.

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, J. Collins, C. Dauray, S. Estenoz, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, K. Burns, J. Nutt, F. Bartolone, D. Moore. (Sheryl G. Wood, ext. 6976)

Action Items (if any) Stemming from Attorney Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in United States of America v. South Florida Water Management District, et al., United States District Court, Southern District of Florida, Case No. 88-1886-CIV-Moreno. (Sheryl G. Wood, ext. 6976)

Chair Buermann recessed to Attorney Client Session at 12:40 p.m.

Chair Buermann reconvened the meeting at 2:50 p.m.

Sheryl Wood, General Counsel, reported no recommendations for the Board on Agenda Item 47.

48. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in Miccosukee Tribe of Indians of Florida, et al. v. South Florida Water Management District, Supreme Court of Florida, Case No. SC09-1817, and New Hope Sugar Company, et al. v. South Florida Water Management District, Supreme Court of Florida, Case No. SC09-1818.

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, C. Dauray, S. Estenoz, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, F. Bartolone, K. Burns, J. Nutt, F. Bartolone. (Sheryl G. Wood, ext. 6976)

Action Items (if any) Stemming from Attorney Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in Miccosukee Tribe of Indians of Florida, et al. v. South Florida Water Management District, Supreme Court of Florida, Case No. SC09-1817, and New Hope Sugar Company, et al. v. South Florida Water Management District, Supreme Court of Florida, Case No. SC09-1818. (Sheryl G. Wood, ext. 69976)

This item was deleted off the agenda.

49. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in South Florida Water Management District v. Cutler Bay Venture, LLC and Miami-Dade County Tax Collector, 11th Judicial Circuit, Miami-Dade County, Florida, Case No. 07-30747 CA 10. (Sheryl. G. Wood, ext. 6976)

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, J. Collins, C. Dauray, S. Estenoz, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, J. Nutt, F. Bartolone, M. Compagno. (Sheryl. G. Wood, ext. 6976)

Action Items (if any) Stemming from Attorney Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in South Florida Water Management District v. Cutler Bay Venture, LLC and Miami-Dade County Tax Collector, 11th Judicial Circuit, Miami-Dade County, Florida, Case No. 07-30747 CA 10. (Sheryl. G. Wood, ext. 6976)

This item was deleted off the agenda.

50. Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in Collier County v. South Florida Water Management District, et al., 20th Judicial Circuit, Collier County, Florida, Case No. 09-7419-CA.

ATTENDEES: Governing Board Members S. Batchelor, E. Buermann, J. Collins, C. Dauray, S. Estenoz, R. Montgomery, K. Powers, G. Waldman; Executive Director C. Wehle; District attorneys S. Wood, S. Nall, C. Kowalsky, K. Rizzardi, J. Nutt, E. Artau, R. Panse, F. Bartolone,. (Sheryl. G. Wood, ext. 6976).

Action Items (if any) Stemming from Attorney Client Session

Attorney client session pursuant to Section 286.011(8), Florida Statutes (2009) to discuss strategy related to litigation expenditures and/or settlement negotiations in Collier County v. South Florida Water Management District, et al., 20th Judicial Circuit, Collier County, Florida, Case No. 09-7419-CA

Ed Artau, Senior Attorney, presented the action item stemming from Attorney-Client Session:

Staff recommends rejection of settlement offer presented by Collier County in their letter dated July 1, 2010 and directs staff to develop alternative proposals for settlement.

Motion made by Shannon Estenoz, seconded by Glenn Waldman to accept staff's recommendation of rejecting of settlement offer presented by Collier County in their letter dated July 1, 2010 and directs staff to develop alternative proposals for settlement. Vote called. Voting yes: Shannon Estenoz, Glenn Waldman, Sandy Batchelor, Eric Buermann, Joe Collins, Charles Dauray, Jerry Montgomery, Kevin Powers. Motion passed.

Adjournment

51. Adjourn

Chair Buermann adjourned the meeting at 3:20 p.m.

Eric Buermann
Governing Board Chairman
South Florida Water Management District Governing Board

Recorded By:

Cathy Widness
Administrative Assistant Senior
Governing Board and Executive Services
SFWMD

Motion made by Jerry Montgomery, seconded by Shannon Estenoz to Approve the following item(s): 51

Vote called. Voting yes: Jerry Montgomery, Shannon Estenoz, Sandy Batchelor, Eric Buermann, Joe Collins, Charles Dauray, Kevin Powers, Glenn Waldman.

Motion passed.